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MINISTRY OF LAW

(Legislative Department)

The following Act of Parliament received the assent of the President on the 27th August, 1959, and is hereby published for general information:—

THE PHARMACY (AMENDMENT) ACT, 1959

No. 24 of 1959 .

[27th August, 1959].

An Act further to amend the Pharmacy Act, 1948.

Be it enacted by Parliament in the Tenth Year of the Republic of India as follows:—

1. (1) This Act may be called the Pharmacy (Amendment) Act, 1959. Short title and commencement.

(2) Section 19 shall come into force at once; and the remaining provisions shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint; and different dates may be appointed for different States or areas thereof.

8 or 1948. 2. In section 1 of the Pharmacy Act, 1948 (hereinafter referred to as the principal Act),— Amendment of section 1.

(a) for sub-section (2), the following sub-section shall be substituted, namely:—

“(2) It extends to the whole of India except the State of Jammu and Kashmir.”;

(b) in sub-section (3), the words “not later than three years from the commencement of this Act,” shall be omitted;

and the following proviso shall be inserted at the end, namely:—

“Provided that where on account of the territorial changes brought about by the reorganisation of States on the 1st day of November, 1956, Chapters III, IV and V have effect only in a part of a State, the said Chapters shall take effect in the remaining part of that State from such date as the State Government may in like manner appoint.”.

Amendment
of section 2.

3. In section 2 of the principal Act,—

(a) for clause (c), the following clause shall be substituted, namely:—

‘(c) “Indian University” means a university established or incorporated under any law for the time being in force in the territories to which this Act extends;’;

(b) for clause (f), the following clause shall be substituted, namely:—

‘(f) “medical practitioner” means a person—

(i) holding a qualification granted by an authority specified or notified under section 3 of the Indian Medical Degrees Act, 1916, or specified in the Schedules to the Indian Medical Council Act, 1956; or

7 of 1916.
102 of 1956.

(ii) registered or eligible for registration in a medical register of a State meant for the registration of persons practising the modern scientific system of medicine; or

(iii) registered in a medical register of a State, who, although not falling within sub-clause (i) or sub-clause (ii) is declared by a general or special order made by the State Government in this behalf as a person practising the modern scientific system of medicine for the purposes of this Act; or

(iv) registered or eligible for registration in the register of dentists for a State under the Dentists Act, 1948; or

16 of 1948.

(v) who is engaged in the practice of veterinary medicine and who possesses qualifications approved by the State Government;’;

(c) clause (k) shall be omitted.

4. In section 3 of the principal Act,—

(a) after clause (d), the following clause shall be inserted, namely:—

“(dd) the Drugs Controller, India, *ex officio* or if he is unable to attend any meeting, a person authorised by him in writing to do so;”;

Amendment
of section 3

(b) for the proviso, the following proviso shall be substituted, namely:—

“Provided that for five years from the date on which this Chapter comes into force in the State of Kerala, Mysore or Rajasthan, as the case may be, instead of a member elected under clause (g), the State Government shall nominate one member, being a person eligible for registration as a pharmacist under section 31.”.

5. In section 5 of the principal Act, in sub-section (1), the proviso ^{Amendment of section 5.} shall be omitted.

6. In section 8 of the principal Act, in sub-section (1), the proviso ^{Amendment of section 8.} shall be omitted.

7. In section 19 of the principal Act, after clause (d), the following clause ^{Amendment of section 19.} shall be inserted, namely:—

23 of 1940.

“(dd) the officer-in-charge of drugs control organisation of the State under the Drugs Act, 1940, *ex officio* or if he is unable to attend any meeting, a person authorised by him in writing to do so;”.

8. In section 21 of the principal Act, in sub-section (1), after ^{Amendment of section 21.} clause (d), the following clause shall be inserted, namely:—

23 of 1940.

“(dd) the officer-in-charge of drugs control organisation of each participating State under the Drugs Act, 1940, *ex officio* or if he is unable to attend any meeting, a person authorised by him in writing to do so;”.

9. In section 31 of the principal Act, for the words “A person ^{Amendment of section 31.} shall be entitled”, the words “A person who has attained the age of eighteen years shall be entitled” shall be substituted.

10. In section 32 of the principal Act,—

(a) in sub-section (1),—

^{Amendment of section 32.}

(i) for the words “a person shall on payment of the prescribed fee”, the words “a person who has attained the age of eighteen years shall on payment of the prescribed fee” shall be substituted;

(ii) in the proviso, for the words “under this sub-section”, the words, brackets and letters “under clause (a) or clause (c)” shall be substituted;

(b) in sub-section (2),—

(i) for the words “twenty-one years”, the words “eighteen years” shall be substituted;

(ii) the words "or is a registered pharmacist in another State" shall be inserted at the end.

Insertion of
new section
32A.

Special
provisions
for regis-
tration of cer-
tain persons.

11. After section 32 of the principal Act, the following section shall be inserted, namely:—

"32A. (1) Notwithstanding anything contained in section 32, a State Council may also permit to be entered on the register—

(a) the names of displaced persons who have been carrying on the business or profession of pharmacy as their principal means of livelihood from a date prior to the 4th day of March, 1948, and who satisfy the conditions for registration as set out in section 31;

(b) the names of citizens of India who have been carrying on the business or profession of pharmacy in any country outside India and who satisfy the conditions for registration as set out in section 31;

(c) the names of persons who resided in an area which has subsequently become a territory of India and who satisfy the conditions for registration as set out in section 31;

(d) the names of persons who carry on the business or profession of pharmacy in the State, and

(i) would have satisfied the conditions for registration as set out in section 31, on the date appointed under sub-section (2) of section 30, had they applied for registration on or before that date; or

(ii) have been engaged in the compounding of drugs in a hospital or dispensary or other place in which drugs are regularly dispensed on prescriptions of medical practitioners as defined in sub-clause (iii) of clause (f) of section 2 for a total period of not less than five years prior to the date appointed under sub-section (2) of section 30;

(e) the names of persons who were qualified to be entered in the register for a State as it existed immediately before the 1st day of November, 1956, but who, by reason of the area in which they resided or carried on their business or profession of pharmacy having become part of a State as formed on that date, are not qualified to be entered in the register for the latter State only by reason of their not having passed either a matriculation examination or an examination prescribed as being equivalent to a matriculation examination or an approved examination or of their not possessing a qualification approved under section 14;

(f) the names of persons—

(i) who were included in the register for a State as it existed immediately before the 1st day of November, 1956; and

(ii) who, by reason of the area in which they resided or carried on their business or profession of pharmacy having become part of a State as formed on that date, reside or carry on such business or profession in the latter State;

(g) the names of persons who reside or carry on their business or profession of pharmacy in an area in which this Chapter takes effect after the commencement of the Pharmacy (Amendment) Act, 1959, and who satisfy the conditions for registration as set out in section 31.

(2) Any person who desires his name to be entered in the register in pursuance of sub-section (1) shall make an application in that behalf to the State Council, and such application shall be accompanied by the prescribed fee.

(3) The provisions of this section shall remain in operation for a period of two years from the commencement of the Pharmacy (Amendment) Act, 1959:

Provided that the State Government may, by notification in the Official Gazette, extend the period of operation of clause (a), clause (b) or clause (c) of sub-section (1) by such further period or periods, not exceeding two years in the aggregate, as may be specified in the notification.

Explanation 1.—For the purposes of clause (a) of sub-section (1), “displaced person” means any person who on account of the setting up of the Dominions of India and Pakistan or on account of civil disturbances or the fear of such disturbances in any area now forming part of Pakistan, has, on or after the 1st day of March, 1947, left or been displaced from his place of residence in such area and who has since then been residing in India.

Explanation 2.—For the purposes of clauses (b), (c) and (g) of sub-section (1), the period referred to in clause (d) of section 31 shall be computed with reference to the date of application.”.

12. In section 34 of the principal Act, in sub-section (3), for the words “in the prescribed manner endorse the certificate of registration accordingly”, the words “issue a receipt therefor and such receipt shall be proof of renewal of registration” shall be substituted.

Amendment
of section
34.

Amendment
of section
36.

13. In sub-section (1) of section 36 of the principal Act,—

(a) in clause (iii), after the words “for the purposes of his business of pharmacy”, the words “or employed to work under him in connection with any business of pharmacy” shall be inserted;

(b) in the proviso,—

(i) in clause (c), after the words “employed by the registered pharmacist for the purposes of his business of pharmacy”, the words “or employed to work under him in connection with any business of pharmacy” shall be inserted;

(ii) in clause (e), after the words “by persons employed by him”, the words “or by persons under his control” shall be inserted.

Substitution
of new sec-
tion for sec-
tion 40.

Printing of
register and
evidentiary
value of
entries
therein.

14. For section 40 of the principal Act, the following section shall be substituted, namely:—

“40. (1) As soon as may be after the 1st day of April subsequent to the commencement of the Pharmacy (Amendment) Act, 1959, the Registrar shall cause to be printed copies of the register as it stood on the said date.

(2) The Registrar shall thereafter cause to be printed as soon as may be after the 1st day of April in each year copies of the annual supplement to the register referred to in sub-section (1), showing all additions to, and other amendments in, the said register.

(3) (a) The register shall be brought up-to-date three months before ordinary elections to the State Council are held and copies of this register shall be printed.

(b) The provisions of sub-section (2) shall apply to the register as so printed as they apply to the register referred to in sub-section (1).

(4) The copies referred to in sub-section (1) or sub-section (2) or sub-section (3) shall be made available to persons applying therefor on payment of the prescribed charge and shall be evidence that on the date referred to in the register or annual supplement, as the case may be, the persons whose names are entered therein were registered pharmacists.”.

15. In section 41 of the principal Act,—

(a) in clause (b) of sub-section (2), after the words “or any combination of such words”, the words “or of any such word with any other word” shall be inserted;

Amendment
of section
41.

(b) in sub-section (3), after the words "the State Government or", the words "any officer authorized in this behalf by the State Government or by order of" shall be inserted.

16. In section 42 of the principal Act,—

Amendment
of section
42.

(a) in sub-section (1), the words "except under the direct and personal supervision of a registered pharmacist" shall be omitted;

(b) in sub-section (3), for the words "an order of the State Government", the words "order of the State Government or any officer authorised in this behalf by the State Government, or by order of the Executive Committee of the State Council" shall be substituted.

17. In sub-section (2) of section 46 of the principal Act,—

Amendment
of section
46.

(a) in clause (j), the words "and the manner of endorsement of renewals thereof" shall be omitted;

(b) after clause (k), the following clause shall be inserted, namely:—

"(kk) the conduct of pharmacists and their duties in relation to medical practitioners, the public and the profession of pharmacy;".

18. (1) Where on account of the territorial changes brought about by the reorganisation of States on the 1st day of November, 1956, a State Council is functioning either in a part of a State or in more than one State, the Central Government may, after consulting the State Government or Governments concerned, by order provide for all or any of the following matters, namely:—

Special pro-
visions for
dissolution
or reconsti-
tution and
reorganisa-
tion of State
Councils.

(a) the dissolution of the State Council;

(b) the reconstitution and reorganisation in any manner whatsoever of the State Council, including the constitution, where necessary, of new State Councils;

(c) the extension of the term of office of the members of a State Council for any period or periods not exceeding two years in the aggregate;

(d) the area in respect of which the reconstituted State Council or new State Council shall function and operate;

(e) the transfer, in whole or in part, of the assets, rights and liabilities of the State Council (including the rights and liabilities under any contract made by it) to any other State Councils or State Governments and the terms and conditions of such transfer.

(f) the substitution of any such transferee for the State Council or the addition of any such transferee, as a party to any legal proceeding to which the State Council is a party; and the transfer of any proceedings pending before the State Council to any such transferee;

(g) the transfer or re-employment of any employees of the State Council to, or by, any such transferee and subject to the provisions of section 111 of the States Reorganisation Act, 1956, the terms and conditions of service applicable to such ^{37 of 1956} employees after such transfer or re-employment;

(h) such incidental, consequential and supplementary matters as may be necessary to give effect to the purposes of this section.

(2) Where an order is made under this section, transferring the assets, rights and liabilities of any State Council, then, by virtue of that order, such assets, rights and liabilities of the State Council shall vest in, and be the assets, rights and liabilities of, the transferee.

(3) Every order made under this section shall be published in the Official Gazette and shall be laid before each House of Parliament, as soon as may be, after it is made.

19. Chapters III, IV and V of the principal Act shall be deemed to have taken effect in the territories which immediately before the commencement of the Constitution were either comprised in the Province of Bombay or being administered as if they formed part of that Province, on the earliest date on which any act, proceeding or thing was done or taken in the said territories by the Government or by any officer of Government or by any other authority in the belief or purported belief that the said Chapters had taken effect in the said territories and that such act, proceeding or thing was being done or taken under the said Chapters; and all acts, proceedings and things of the nature referred to above, done or taken in the said territories between the said date and the commencement of this section by the Government or by any officer of Government or by any other authority shall for all purposes be deemed to be.

and to have always been, done or taken in accordance with law; and no suit or other proceeding shall be maintained or continued against the Government or any person or authority whatsoever on the ground that any such act, proceeding or thing was not done or taken in accordance with law.

G. R. RAJAGOPAUL, Secy.

